



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2018-0121; FRL-9985-85-Region 5]**

**Air Plan Approval; Ohio; Ohio Permit Rules Revisions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to Ohio air permitting rules at Ohio Administrative Code (OAC) 3745-31 into the State Implementation Plan (SIP) under the Clean Air Act (CAA). These revisions represent minor changes to the air permitting rules the Ohio Environmental Protection Agency (OEPA) adopted on April 21, 2016, which became effective at the state level on May 1, 2016.

**DATES:** Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2018-0121 at <http://www.regulations.gov>, or via email to [damico.genevieve@epa.gov](mailto:damico.genevieve@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not

submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Sam Portanova, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3189, [portanova.sam@epa.gov](mailto:portanova.sam@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background

II. Review of State Submittal

III. What Action is EPA Taking?

IV. Incorporation by Reference.

V. Statutory and Executive Order Reviews.

## **I. Background**

On January 2, 2018, OEPA submitted to EPA revisions to rules in OAC chapters 3745-31-01, 3745-31-03, 3745-31-05, 3745-31-06, 3745-31-11, 3745-31-13, and 3745-31-14. These revisions pertain to air permitting rules which update definitions, provisions for exemptions and permits-by-rule, criteria for permits-to-install (PTI) and permits-to-install-and-operate (PTIO), and attainment provisions. Ohio adopted revisions to these rules on April 21, 2016.

After the April 21, 2016 rule revisions, OEPA submitted revisions to OAC 3745-31-01 to EPA on March 10, 2017, which became effective at the state level on March 20, 2017. These revisions determined that volatile organic compounds (VOCs) and ammonia are an insignificant source of particulate matter smaller than 2.5 micrometers (PM<sub>2.5</sub>). EPA published a final approval of this rule revision on July 18, 2018 (83 FR 33844).

In the January 2, 2018 submittal, OEPA requested that the following paragraphs be excluded from approval into the SIP: OAC 3745-31-01(I), (NN) (2) (b) and (c), (SSS) (1) (b), (CCCC) (2) (d)

through (h), (QQQQ), (JJJJJ), and (BBBBBB); 3745-31-03(B)(1)(p) and (C)(2)(c)(iii); 3745-31-05(A)(3)(a)(ii) and (E); and 3745-31-13(H)(1)(c).

## **II. Review of State Submittal**

The following discussion summarizes the rule revisions and EPA's analysis of them under the CAA.

### 3745-31-01 revisions

The definition of "emergency" at OAC 3745-31-01(MM)(4) adds a paragraph to include instances where a regional transmission organization implements emergency procedures for voluntary load curtailments. This addition is consistent with the existing language in this definition which accounts for power outage instances.

The definition of "emergency engine" has been revised to add examples of emergencies in OAC 3745-31-01(NN)(1). The definition also adds a paragraph at OAC 3745-31-01(NN)(2)(f) to include non-emergency situations other than those already listed in the rule. Such usage is limited to 50 hours per year. This language is consistent with 40 CFR 60.4211(f), 40 CFR 60.4243(d)(2)(ii), and 40 CFR 63.6640(f)(4).

The definition of "major modification" has been modified to add the following language at OAC 3745-31-01(LLI)(6):

"different pollutants, including individual precursors, are not

summed to determine applicability of a major modification."

This new language is consistent with the existing method for summing emissions to determine whether a modification will be considered major for new source review (NSR) or prevention of significant deterioration (PSD).

The definition of "major stationary source" (OAC 3745-31-01(NNN)) has been modified to add lower emission thresholds for VOCs, carbon monoxide (CO), particulate matter smaller than 10 micrometers (PM<sub>10</sub>), and PM<sub>2.5</sub> consistent with title I, part D, subparts 2, 3, and 4 of the CAA. The modification to this definition also adds the following language "different pollutants, including individual precursors, are not summed to determine applicability of a major modification," which is consistent with the revision to the definition of "major modification" discussed above.

The definition of "PM<sub>2.5</sub> precursor" (OAC 3745-31-01(WWWW)) has been modified to state that VOC and ammonia are determined to be insignificant contributors to PM<sub>2.5</sub> formation. EPA approved this precursor determination for VOC and ammonia on July 18, 2018 (83 FR 33844).

The definition of "regulated NSR pollutant" has been modified at OAC 3745-31-01(NNNNN)(2)(a)(ii)(d) to add a paragraph stating that VOCs are presumed not to be precursors to

PM<sub>2.5</sub> unless demonstrated otherwise. This addition is consistent with the final rule that EPA published on August 24, 2016 (81 FR 58010).

The definition of "significant" (OAC 3745-31-01(VVVVV)) has been modified to add an emission rate threshold of 40 tons per year for VOC emissions as a precursor to PM<sub>2.5</sub> emissions. This is consistent with 40 CFR 51.165(a)(1)(x)(A).

The list of reference materials in OAC 3745-31-01(LLLLL) has been modified to add new reference materials and update **Federal Register** and Code of Federal Regulations citations. The updates to this section do not change any requirements under this rule and are for reference purposes only.

#### OAC 3745-31-03 revisions

OAC 3745-31-03 contains provisions for sources that qualify for exemptions or permits-by-rule. OAC 3745-31-03(A) has been revised to add a list of CAA requirements that sources qualifying for an exemption to obtain a PTI or PTIO still must comply with. OAC 3745-31-03(B)(1) has been modified to remove language that excludes exemptions for emissions sources subject to 40 CFR part 60, part 61, or part 63 standards. Although this language has been removed, these units are still obligated to meet all CAA requirements as stated in OAC 3745-31-03(A).

OAC 3745-31-03(B)(1)(a), (c), and (nn) and 3745-31-03(C)(2) have been revised to remove "(with less than or equal to 0.5 per cent by weight sulfur)" from the term "distillate oil." The definition of "distillate oil" in OAC 3745-31-01(KK) already includes the phrase "(with less than or equal to 0.5 per cent by weight sulfur)." Therefore, these revisions remove redundant wording and do not change the definition of "distillate oil."

OAC 3745-31-03(B)(1)(q) adds an exemption for dry cleaning facilities that do not use perchloroethylene solvent, use petroleum solvents, and meet a list of other qualifications. On July 27, 2018, OEPA submitted a supplement to the January 2, 2018 SIP submittal to address requirements of Section 110(1) of the CAA. In this supplement, OEPA stated that sources meeting the criteria for this new exemption are low-emitting sources which would not have been permitted prior to the rule change. This explicit exemption is meant to provide clarity to small businesses that already would have been exempt from permitting requirements.

OAC 3745-31-03(B)(1)(r) adds an exemption for dry cleaning facilities that employ wet cleaning processes, liquid carbon dioxide processes, or equipment that utilizes volatile methyl siloxane solvent. In the July 27, 2018 supplement, OEPA stated that sources meeting the criteria this new exemption are low-

emitting sources which would not have been permitted prior to the rule change. This explicit exemption is meant to provide clarity to small businesses that already would have been exempt from permitting requirements.

The paragraph in OAC 3745-31-03(B)(1)(jj) replaces "arc welding" with "brazing, soldering, welding, or plasma cutting operations." This revision applies to de minimis operations and will not impact which sources are required to obtain a PTI or PTIO.

OAC 3745-31-03(B)(1)(ll) is the existing exemption for coating applicators. The paragraph that says "not located at a facility with actual emissions of twenty-five or more tons of volatile organic materials per year" has been revised to remove the following language: "and are not subject to a standard under Section 112 of the Clean Air Act." Despite this language removal, sources are still obligated to comply with any 40 CFR part 63 maximum achievable control technology standard pursuant to OAC 3745-31-03(A)(5).

OAC 3745-31-03(B)(1)(nn) and (oo) and OAC 3745-31-03(C)(a) add language to the existing exemptions which state that such sources shall comply with 40 CFR part 60 subpart IIII, 40 CFR part 60 subpart JJJJ, and 40 CFR part 63 subpart ZZZZ, as



applicable. This is a clarification of existing requirements for source that qualify for these exemptions.

OAC 3745-31-03(B)(1)(uu) through (jjj) adds exemptions to a several activities. In its supplement to the request dated July 27, 2018 discussing CAA Section 110(l), OEPA indicated that sources meeting the criteria for these new exemptions are low-emitting sources which would not have been permitted prior to the rule change. These exemptions are meant to provide clarity to small businesses that already would have been exempt from permitting requirements.

The rule revisions add a sentence on de minimis exemptions at OAC 3745-31-03(B)(4) which says that sources meeting rule OAC 3745-15-05 are exempt from this chapter. OAC 3745-15-05 is an existing rule which provides an exemption to sources that meet the definition of de minimis in that rule. This new addition provides a clarification for sources that are already exempt under existing rule provisions.

OAC 3745-31-03(C), which is the section for permits-by-rule, removes a paragraph that included definitions for "emergency;" "emergency electrical generator," "emergency water pump," or "emergency air compressor;" and "emergency internal combustion engine." These definitions are addressed elsewhere in OEPA's rules.

OAC 3745-31-03(C)(2)(a) lists source specific permit-by-rule provisions for emergency equipment. The rule revisions add a statement at OAC 3745-31-03(C)(2)(iii) that says, "there is no time limit on the use of emergency electrical generators in emergency situations." This language is consistent with 40 CFR 60.4211(f)(1), 40 CFR 60.4243(d)(1), and 40 CFR 63.6640(f)(1).

The permit-by-rule provisions for auto body refinishing facilities (OAC 3745-31-03(C)(2)(f)) have been revised to include several minor changes to deminimis operations. Ohio conducted modeling to confirm that the change in the stack height limit will not impact air quality above the state's maximum acceptable ground level concentration (MAGLC). EPA agrees that the change in stack height limit will not impact air quality above the MAGLC.

The permit-by-rule provisions for gasoline dispensing facilities with Stage I controls (OAC 3745-31-03(C)(2)(g)) have been revised to include a requirement that facilities comply with 40 CFR part 63, subpart CCCCCC, when applicable.

The permit-by-rule provisions for gasoline dispensing facilities with Stage I and Stage II controls (OAC 3745-31-03(C)(2)(h)) have been revised to add the following: 1) a requirement that facilities comply with 40 CFR part 63, subpart CCCCCC, when applicable; 2) sources that have decommissioned the

Stage II vapor control system to the list of eligible conditions; and 3) a requirement for low permeation hoses pursuant to OAC 3745-31-09(DDD). These revisions update the rule language to be consistent with other regulatory requirements and do not make this provision less stringent.

The permit-by-rule provisions for small printing facilities (OAC 3745-31-03(C)(2)(j)) have been revised to add OAC 3745-22-22(A) through (I) to the list of applicable requirements. This was added to provide clarity regarding existing requirements for sources subject to this provision.

The rule revisions add a new source-specific permit-by-rule for unpaved roadways and parking areas and paved roadways and parking areas at OAC 3745-31-03(C)(2)(l) and (m), respectively. OEPA states in its July 27, 2018, Section 110(l) supplement, that these new provisions maintain operational, monitoring, recordkeeping, and reporting requirements that would have applied to affected sources that obtained a permit. As such, the addition of a permit-by-rule for these source categories will not impact emissions or air quality pursuant to Section 110(l) of the CAA.

OAC 3745-31-05, 3745-31-13, and 3745-31-14 revisions

OAC 3745-31-05(A)(3)(a)(iv) has been added to Ohio's rules which says that Best Available Technology (BAT) is not required

for sources subject to a plant-wide applicability limit (PAL). This addition is consistent with the expectation that a PAL established pursuant to OAC 3745-31-32 will supersede other applicable permitting requirements for that pollutant at a source.

OAC 3745-31-05(A) (3) (f) and (g) have been added to Ohio's rules which establish minimum equivalent limits for BAT.

OAC 3745-31-05(F) has been revised to add clarifying language regarding voluntary limits on allowable emissions.

The rule revisions remove a section about site approval for portable sources, which was formerly at OAC 3745-31-05(H). Site approvals for portable sources are already addressed in OAC 3745-31-03(B) (1) (p) .

The rule revisions include changes to OAC-3745-31-05(I), which addresses inter-divisional coordination within the Office of Enforcement and Compliance Assurance. The provisions in this section do not impact CAA requirements.

OAC 3745-31-13(H) (1) (f) and OAC 3745-31-14(D) have been revised to add nitrogen oxides as an ozone pollutant. This revision is consistent with Federal rules.

#### Grammatical changes

The rule revisions include a number of changes that are grammatical in nature which do not change the meaning of the

rule requirements. For example, some changes remove the phrase "the following" ahead of a series of subparagraphs and remove the word "or" after each subparagraph. Another example is replacing the pronoun "it" with more specific wording to promote clarity. These changes are applied throughout the rule revisions and are too numerous to individually itemize, but are all minor and do not change the meaning of the rules.

### **III. What Action is EPA Taking?**

EPA is proposing approval of the rule revisions to 3745-31-01, 3745-31-03, 3745-31-05, 3745-31-06, 3745-31-11, 3745-31-13, and 3745-31-14 that OEPA submitted on January 2, 2018, into the SIP. EPA finds that the revisions are consistent with Federal requirements. As requested by OEPA, the following provisions are not included in this proposed approval: OAC 3745-31-01(I), (NN) (2) (b) and (c), (SSS) (1) (b), (CCCC) (2) (d) through (h), (QQQQ), (JJJJJ), and (BBBBBB); 3745-31-03(B) (1) (p) and (C) (2) (c) (iii); 3745-31-05(A) (3) (a) (ii) and (E); and 3745-31-13(H) (1) (c).

### **IV. Incorporation by Reference.**

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference revisions to OAC 3745-31-01 [with

the exception of OAC 3745-31-01(I), (NN) (2) (b) and (c), (SSS) (1) (b), (CCCC) (2) (d) through (h), (QQQQ), (JJJJJ), and (BBBBBB)], as effective on March 20, 2017; and OAC 3745-31-03 [with the exception of OAC 3745-31-03(B) (1) (p) and (C) (2) (c) (iii)], OAC 3745-31-05 [with the exception of OAC 3745-31-05(A) (3) (a) (ii) and (E)], OAC 3745-31-06, OAC 3745-31-11, OAC 3745-31-13 [with the exception of OAC 3745-31-13(H) (1) (c)], and OAC 3745-31-14, as effective on May 1, 2017. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

## **V. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).



**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 11, 2018.

Cathy Stepp,  
Regional Administrator, Region 5.

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